

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MCGRAW PROPERTIES SOLUTIONS LLC a/a/o)		
ATLAS HOLDINGS INVESTMENT, LLC DBA)		Case No. 2022-cv-396
BROOKVIEW VILLAGE APARTMENTS, LLC,)		
)		
Plaintiffs,)		State Case No. 2021 CH 02839
)		
v.)		
)		
WESTCHESTER SURPLUS LINES INSURANCE)		
COMPANY,)		
)		
Defendants.)		

PETITION FOR REMOVAL

Defendant Westchester Surplus Lines Insurance Company (“Westchester”), through its attorneys and pursuant to 28 U.S.C. §§ 1441(a) and 1446, removes this civil action from the Circuit Court of Cook County, Illinois, Chancery Division to the United States District Court for the Northern District of Illinois, Eastern Division. In support of Removal, Westchester states:

1. On June 10, 2021 Plaintiff McGraw Property Solutions LLC a/a/o Atlas Holdings Investment, LLC DBA Brookview Village Apartments, LLC (“Plaintiff”) filed a Petition for Declaratory Judgment to Compel Appraisal and Breach of Contract in the Circuit Court of Cook County, Illinois, Chancery Division captioned *McGraw Property Solutions LLC a/a/o Atlas Holdings Investment, LLC DBA Brookview Village Apartments, LLC*, No. 2021 CH 02839 (the “Petition”). Copies of all documents filed in the State Court Action are attached hereto as **Exhibit A.**

2. On January 10, 2022, undersigned counsel executed an Acknowledgment of Receipt of Summons and Petition behalf of Westchester. **Exhibit B.**

BASIS FOR FEDERAL JURISDICTION

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because this is a civil action in which the amount in controversy exceeds the sum of \$75,000.00, exclusive of costs and interests, and because there is complete diversity between Plaintiff and Defendant.

4. Removal to the United States District Court for the Northern District of Illinois, Eastern Division, is proper in this Court pursuant to 28 U.S.C. §§ 112(c) because it is the district and division embracing the place where such action is pending in accordance with 28 U.S.C. § 1441(a).

DIVERSITY OF CITIZENSHIP

5. Plaintiff is an Illinois limited liability company with its member a citizen of the State of Florida. Defendant Westchester is incorporated in the State of Georgia with its principal place of business in Georgia.

AMOUNT IN CONTROVERSY

6. Plaintiff alleges two causes of action against Defendant Westchester in the Petition: (1) Declaratory Judgement and (2) breach of contract.

7. Although the Plaintiff does not specify the exact amount of damages sought, the Petition alleges that Plaintiff has suffered damages in a sum in excess of \$50,000. Petition ¶ 29.

8. Although the Plaintiff does not plead a specific amount in controversy in excess of \$75,000, the Petition alleges: (1) Defendant Westchester's engineering consultant confirmed both wind and hail damage to the Plaintiff's properties, (2) that Plaintiff's consultant's inspection concluded all of the roofing systems on the buildings require replacement at an estimated cost of \$1,614,595.08, (3) that Westchester has declined to repair and/or replace all of the alleged covered damage to the insured properties, (4) that Westchester breached the insurance contract

by failing to pay for Plaintiff's claim, and (5) that Plaintiff is entitled to prejudgment interest pursuant to the Illinois Interest Act. Petition ¶¶ 14, 176, 28-30.

9. In sum, the allegations of the Petition reflect that Plaintiff seeks a monetary judgment in an amount that exceeds the \$75,000 jurisdictional threshold in 28 U.S.C. § 1332(a).

REMOVAL PROCEDURE

10. No previous application has been made for the relief requested herein.

11. Defendant Westchester has complied with all statutes, orders, and provisions governing the removal of this action.

12. Defendant Westchester does not waive any legal defenses that it may have to defend against the allegations made by Plaintiff in the Petition.

13. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiff and a copy is also being filed with the Clerk of the Circuit Court of Cook County, Illinois.

WHEREFORE, Defendant Westchester Surplus Lines Insurance Company requests that the State Court Action be removed to the United States District Court for the Northern District of Illinois, Eastern Division, and that this Court assume jurisdiction of this action and make further orders as may be required to properly determine this controversy.

Dated: January 24, 2022

Respectfully submitted,

/s:/ Matthew S. Ponzi

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Attorneys for Defendant,
Westchester Surplus Lines Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2022, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

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/s:/ Matthew S. Ponzi